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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,817	02/05/2001	John Michael Boushy	19538-05688	8587
758	7590	04/19/2004	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			SAGER, MARK ALAN	
		ART UNIT	PAPER NUMBER	
		3714		

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PR

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/777,817	BOUSHY, JOHN MICHAEL
	<b>Examiner</b> M. A. Sager	<b>Art Unit</b> 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 August 2003 and 04 February 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/18/03 and 2/5/04</u> .	6) <input type="checkbox"/> Other: _____

***Allowable Subject Matter***

1. The indicated allowability of claim 1-8 is withdrawn in view of prior use or sale as cited within the newly discovered reference(s) to Olson and cumulative references to EDT Series Slot Management System. Rejections based on the newly cited reference(s) follow.

***Information Disclosure Statement***

2. The information disclosure statement filed 8/18/03, cites other documents C1-C22; however, upon review of the file, no legible copy of each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed were in the file or associated with the file. The examiner is not stating that the cited documents were not provided, but is stating that currently, those references are not associated with instant application. As stated during telephone conversation on 4/13/03 with Mr. Brownstone, 46581, examiner requests copies of references c1-c22 be resubmitted (with annotation indicating re-submission, Do Not Enter) so they may be considered since currently those references are not available for review within the Office. It has been placed in the application file, but the information referred to therein has not been considered.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1-8 is rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. Applicants' admitted prior art (page 1-2) details a computerized player tracking

system accumulating and storing player wagering activity (presumably based at least on minimum or average wager, time played, house advantage and number of decisions per hour, for theoretical or expected win profile as detailed in ‘A Guide for Entrepreneurs, Management Personnel, and Aspiring Managers’ by Martinez or ‘How to be Treated Like a High Roller’, page 67, by Renneisen, or ‘Lifestyles of a High Roller’, page 117, by Wolff, or Casino Management Handbook, pg 42) within a casino property for purposes of providing complimentary services to player and permit targeted marketing of preferential players (customers). As best understood, Applicant’s admitted prior art describes a local database system for automatically collecting customer’s betting activity at a casino property for subsequent calculation of theoretical win or expected win profile in a player tracking/complementary servicing system. Olson details in article, ‘The Computerized Casino’, July 1987 issue of Northwest, Harrah’s public use of player tracking system using a little plastic card not unlike a credit card slipped into a box sitting on top of a slot machine (page 17) which reads his wagering activity (his presence is being acknowledged with messages being flashed to the back room, pg 17), and provides compensation based in part on his wagering profile (whiskey sour or Wayne Newton appearance cited on pg 17, points that can be cashed in for rooms, shows, drinks, special players’ banquets and cars, cited on page 18), having a network with a database of player information including preferences (pg 19), with a first and second casino joint slot club for Harrah’s in Reno and Lake Tahoe (pg 19). Finally, EDT Slot Management System details computer accounting and player tracking system for tracking and storing player wagering activity. Essentially, as best understood, it appears that the joint venture between Harrah’s properties of Reno and Tahoe demonstrated at least a prior public use of a computerized network player tracking system that accumulated

identified player wagering activity on player tracking card and/or server database (presumably based at least on average wager as stated above) whereby player wagering activity was saved in a database and data transferred/shared between the joint venture casinos such as via player tracking card or network communication between casinos to report player activity and to transfer to another casino at least via player tracking card for providing comps to players who wagered at the casinos in the joint venture based on cumulative wagering data between the casinos in joint venture. The admitted prior art within instant background is relied upon for establishing known computerized player tracking within a casino based on player wagering activity in a given casino; while the references to 'A Guide for Entrepreneurs, Management Personnel, and Aspiring Managers' by Martinez or 'How to be Treated Like a High Roller', page 67, by Renneisen, or 'Lifestyles of a High Roller', page 117, by Wolff, or Casino Management Handbook, pg 42 are relied upon to show casino use of player activity such as minimum or average bet, time played, rate of play and hold percentage to determine a theoretical win or expected win profile and subsequent player rating for providing complimentary services thereby. It is also noted that the Applicants' admitted prior art is relied on to show tracking of customer betting activity as well as other activity at a casino for recognition as a basis for awarding comps. Also, EDT Slot Management System is relied in part due to statement within Olsen's article regarding a EDT system being used. Thus, it appears, there may have existed a public use of a system for tracking each customer's, i.e. player, activity at a plurality of casinos using customer accounts and customer identifications having a computer network of local computers/databases in communication amongst a plurality of casino properties in a computer implemented method of tracking customer patronage of a plurality of players where the communication is at least via

player tracking card, with the method comprising claimed steps. It is noted 'joint venture' denotes sharing and/or cooperation. The sharing is sharing of customer historical wagering or casino patronage activity data of each of its customers (e.g. players) at each respective casino in the joint venture. The accumulation of each customer's wagering activity and subsequent calculation of each customer's accumulated points and hypothetical win or expected win profile is demonstrated as being done within each casino as stated above within the references to instant background admission of prior art and references to 'A Guide for Entrepreneurs, Management Personnel, and Aspiring Managers' by Martinez or 'How to be Treated Like a High Roller', page 67, by Renneisen, or 'Lifestyles of a High Roller', page 117, by Wolff, or Casino Management Handbook, pg 42 are relied upon to show casino use of player activity such as minimum or average bet, time played, rate of play and hold percentage to determine a theoretical win or expected win profile and subsequent player rating for providing complimentary services thereby. Also, EDT Slot Management System is relied in part due to statement within Olsen's article regarding a EDT system being used. The joint venture as stated within Olsen's article is relied on to show a database of 110,000 joint slot club members such that there is communication or sharing of customer wagering or casino patronage data for providing comps to customers using either or both casinos of the joint venture. At least the player tracking card in a computer database network permits transfer of data thereby or alternatively, via a direct communication link between local database computers of each respective casinos in the joint venture for the purpose of combining customer pools for comp system/marketing purposes as consistent with marketing of frequent customer use programs within airline, hotel, rental car, supermarket or other venture; however, in this instance for wagering activity at two specific properties. It is also

Art Unit: 3714

noted that updating of customer account at a first casino based on activity received/retrieved from customer database of a second casino's stored customer (betting) activity is demonstrated by the Olsen article for joint venture combined with consideration of Applicants admitted prior art for local collecting, updating. It is finally noted that receiving/retrieving customer [betting] activity from a first [casino] property (local database) to a second [casino] (local database) was hornbook engineering at that time. This is exemplified by either hotel, airline or car rental customer patronage systems which use user tracking card for identifying user or by financial/banking systems such as combined user bank accounts with either user debit/credit cards in that patronage systems of other venues similarly track user patronage of joint venture companies; while, financial/banking systems similarly received/retrieved user financial data from another finance/bank based on balance and particular activity such as by use of user debit/credit card. Casinos typically include a hotel as a part of their services for customer patronage and at times act as banker of customers' activity [in instance of loan or marker]. Thus, in consideration of transfer/retrieval of customer activity for patronage within other venues (hotel, car rental, airline), the joint venture shares information of customer patronage at least via player card or by direct casino-to-casino server communication as consistent with communication techniques at that time. The receiving of customer [betting] activity received at a input device such as a card reader or game device coupled to the local database and subsequent storing and automatic updating of a plurality of customer accounts in a database of a first casino based at least on customer [betting] activity is shown at least by Applicants' background admitted prior art for each respective casino of joint venture as reported by Olsen. While, receiving of customer [betting] activity at a input at a first casino from database at a second casino property is the joint

venture reported by Olsen with consideration of network communication at least via a card reader reading of data on player card or via server to server communication between casino databases (sic). It is reiterated that accumulation of betting activity (and casino patronage) and subsequent calculation of customer theoretical profile is admitted as prior art (supra). The transfer of player data from another casino or local database of casino, is discussed by Olsen's report of joint venture between Harrah's Tahoe and Reno properties, which as best understood is at least via player tracking card, but may also be via direct communication link between casinos. As evidence only that direct network communication links was known at that time, Remedio (4910677) shows retrieval of patron data from one clubhouse remote from another clubhouse.

***Conclusion***

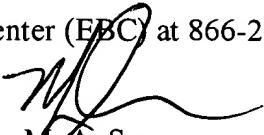
Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 703-308-0785. The examiner can normally be reached on T-F, 0700-1700 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 3714

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M. A. Sager  
Primary Examiner  
Art Unit 3714

MAS